



State of Washington
Department of Revenue

Excise Tax Advisory

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RETAIL SALES TAX REFUNDS

Issued December 16, 1966

May Sales Tax, collected by a vendor when not properly due, be refunded by the state directly to the customer? And when such refund is barred by the two-year statute may the amount in question be used to offset additions tax liability?

In one instance, the taxpayer, a leasing corporation, collected Sales Tax not due on certain tangible personal property. The majority of the tax had been collected for a period two years past. The taxpayer did not have the funds to repay the lessee and asked the state to make direct refund.

In a second situation, lawyers for an estate applied for a refund of Sales Tax paid on the purchase of a mobile home which was not delivered due to an untimely death.

As to both cases, the Tax Commission noted that it has consistently held over the years that a vendor does not become entitled to a refund of Retail Sales Tax until the tax has been refunded to the customer. The tax is imposed directly on the customer and is handled by the vendor as a collecting agent for the state. Therefore, the vendor has no claim against the state until the refund has actually been made by the vendor. A purchaser must secure refund of tax overpayment from the vendor.

With regard to the first case, although the refund of Sales Tax improperly collected was barred by the statutory time limitation, it could not be used by the lessor to offset additional tax liability. The Commission held a refund credit is allowable only when a tax has been paid in excess of that properly due. Since Retail Sales Taxes are collected in trust for the state and do not represent a direct liability of the seller, an excess payment has not been made by the seller to the state until he has refunded the tax to the buyer. Both the seller and buyer have two years to seek refund. To permit Sales Tax overpayment to be offset against additional tax liability would have the effect of extending greater time limitation to the vendor than to the vendee. (Letter.)

ETBS have been made Excise Tax Advisories, and have retained their old number. Advisories with a 2 (plus three digits) are new advisories, ETBs that have been revised and readopted after review under the Department's regulatory improvement program, or advisories that have been revised and/or readopted.

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